IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIDNARY ORIGINAL CIVIL JURISIDICTION

SUM. SUIT NO.16 OF 1984

Anant Shankar Phansikar .. Plaintiff

Vs.

Leslie Jenkins .. Defendant

Ms.Juvekar i/b S.B.Prabhavalkar for the pliantiff

Mr.Sunil Gonsalves i/b A.P.Gupte for the defendant

CORAM: S.U. KAMDAR, J.

DATE : 9TH AUGUST, 2005

P.C. :

1. The present suit is filed for the recovery of the sum of Rs.1,17,250/- with interest on the principal amount of Rs.1,00,000/- @ 6% p.a. The suit arises out of loan transaction given as a friendly loan by the plaintiff to the defendant for the sum of Rs.1.0 lac. In respect of aforesaid loan transaction defendant has executed a receipt dt.27.1.83 promising to repay the said amount within one year. However, no payment was received. So advocate notice was given on 16.2.83 but there was no reply. On 6.2.83 second notice was given and since there was no reply the present suit is filed for the recovery of Rs.1.0 along with @ 6% p.a.

thereon. The defendant was served. No written statement has been filed even after period of 2 years. The learned counsel for the defendant states that he is not able to contact his client and therefore, he has no instruction in the matter.

2. Matter was on board on 26.7.05 and thereafter on 3.8.05 and the matter was thereafter placed today. Inspite of two adjournments he is unable to contact his client. In view of the aforesaid, I have taken original compilation of documents on record. Same is marked Ex.P-1 collectively. The learned counsel for the plaintiff has also filed oral evidence of one Anand Shankar Phansikar which is also taken on record. In view of the fact that there is no written statement and there is no challenge to the evidence laid by the learned counsel for the plaintiff, suit is required to be decreed. Suit is accordingly decreed in terms of prayer clause (a). In the order of the Summons for Judgment dt.9.4.84 the said defendant was directed to deposit amount of Rs.40,000/-. The learned counsel for the defendant states that pursuant to the said order the amount has been deposited. The plaintiff will be entitled to withdraw the amount in part satisfaction of

the decree passed in the present suit. However, there shall be no order as to costs.